

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

Doran Arthur Atkins,)	CIVIL ACTION NO.: 3:07-2718-MJP-BM
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Food Lion,)	
)	
Defendant.)	
_____)	

This matter is before the Court pursuant to a Report and Recommendation submitted by United States Magistrate Judge Bristow Marchant, to whom it was referred for review under 28 U.S.C. § 636(b)(1)(B) and this Court’s Local Rules. This matter was filed by the Plaintiff Doran Arthur Atkins (“Plaintiff”), *pro se*, against Defendant Food Lion (“Defendant”).

In his Complaint, filed on August 7, 2007, Plaintiff asserts claims resulting from an incident wherein Plaintiff alleges that a Food Lion employee and two Food Lion customers assaulted him while he was shopping at one of the Defendant’s stores. Plaintiff was incarcerated at the York County Detention Center at time his Complaint was filed.

Defendant filed an Answer with the Court on December 19, 2007. The docket reflects that Defendant notified the Court that it’s Answer, originally mailed to the Plaintiff at his York County Detention Center address, was returned to them in January 2008, bearing the notation “not here.” Plaintiff had previously filed a change of address on November 14, 2007, setting forth a new mailing address as follows: Doran Atkins c/o/ Pamela Atkins, 223 19th St. Dunbar, WV 25064. The Defendant’s Answer was then mailed again to the Plaintiff’s new address by certified return receipt requested mail, and was signed for by Pamela Atkins. Defendant also

served an “Affidavit of Records Custodian Notice of Filing” to the same address on March 24, 2008, and again the receipt was signed by Pamela Atkins.

On April 11, 2008, the Defendant notified this Court by letter that their recent attempts to serve Defendant’s “Motion to Set Aside Mediation Requirement” upon the Plaintiff through certified mail, return receipt requested, was returned and marked “return to sender/unclaimed/unable to forward.” In response to the Defendant’s letter, the Court issued an Order on April 16, 2008, directing the Plaintiff to confirm in writing within ten (10) days of that Order his current address where papers could be served on him. Plaintiff was advised in the Order that failure to provide the Court with the required information would cause this action to be recommended for dismissal, with prejudice. Plaintiff has failed to respond to that Order.

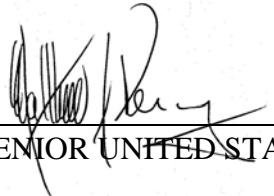
On May 1, 2008, United States Magistrate Judge Bristow Marchant issued a Report and Recommendation, wherein he recommended that this action be dismissed with prejudice, in accordance with Rule 41(b), Fed.R.Civ.P. The Clerk sent the Report and Recommendation to the Plaintiff at his last known address, with a “Notice of Right to File Objections.”

The applicable standard of review for this Court is clear. The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. Matthews v. Weber, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. 28 U.S.C. § 636(b)(1)(C). However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the Magistrate Judge as to those portions of the

Recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). While the level of scrutiny entailed by the Court's review thus depends on whether or not objections have been filed, the Court is free, after review, to accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to him with instructions. Wood v. Schweiker, 537 F. Supp. 660, 661 (D.S.C. 1982). No objections to the Report and Recommendation have been filed.

After reviewing the entirety of this case, including the Report and Recommendation, this Court approves the recommendations of the Magistrate Judge, and this matter is **dismissed with prejudice**, in accordance with Rule 41(b), Fed.R.Civ.P.

IT IS SO ORDERED.



SENIOR UNITED STATES DISTRICT JUDGE

June 13 , 2008

Columbia, South Carolina